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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2010-77

13 **DAVID R. SHADDY**
14 3802 State Route 7
Pittsford, Vermont 05763

A C C U S A T I O N

15 Registered Nurse License No. 606933

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Interim
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 2. On or about September 24, 2002, the Board issued Registered Nurse License
24 Number 606933 to David R. Shaddy ("Respondent"). The license expired on June 30, 2006, and
25 has not been renewed.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline)**

3 8. Respondent is subject to discipline under Code section 2761(a)(4), in that on or
4 about March 12, 2008, in a case entitled *In re David R. Shaddy, License No. 026-0029631*, a
5 Summary Suspension Order, attached hereto as **Exhibit A**, was granted by the Vermont State
6 Board of Nursing, summarily suspending Respondent's nursing license based on diverting
7 Adderall while employed at Brattleboro Retreat on or about January 20, 2008.

8 **PRAYER**

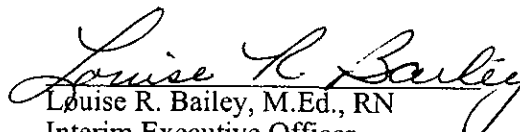
9 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 606933, issued to
12 David R. Shaddy;

13 2. Ordering David R. Shaddy to pay the Board of Registered Nursing the reasonable
14 costs of the investigation and enforcement of this case, pursuant to Code
15 section 125.3; and,

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 8/11/09

18 
19 Louise R. Bailey, M.Ed., RN
20 Interim Executive Officer
21 Board of Registered Nursing
22 Department of Consumer Affairs
23 State of California
24 Complainant

24 SA2008302567
25 Accusation(kdg) 7/24/09
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EXHIBIT A

**VERMONT SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
STATE BOARD OF NURSING**

In re David R. Shaddy }
License No. 026-0029631 }
Docket No. NU64-0108 }

SUMMARY SUSPENSION ORDER

On Monday 10 March 2008, this matter came before the Vermont State Board of Nursing by petition of the State of Vermont. The State of Vermont seeks a summary suspension of Respondent's professional license pursuant to 3 V.S.A. § 814(c). The hearing took place at the Secretary of State's Office of Professional Regulation, National Life Building, Montpelier, Vermont.

The Board has authority to suspend summarily a license pending further proceedings if it determines that public health, safety or welfare imperatively require emergency action.

**Findings of Fact &
Conclusions of Law:**

Based on a review of the evidence presented at the hearing of this matter, the Board finds:

1. The Board of Nursing licenses the Respondent, and the Respondent is subject to the disciplinary authority of this Board. 26 V.S.A. Chapter 28, 3 V.S.A. § 129(a)(3); and the Administrative Rules of the Office of Professional Regulation.
2. The State filed a "Request for Summary Suspension" dated 5 March 2008, alleging that the Respondent diverted Adderall from the Brattleboro Retreat, his place of employment, in January 2008.
3. The State argues that public health, safety or welfare imperatively requires emergency action, and it asks this Board to suspend summarily the Respondent's license prior to a full hearing on the merits.
4. The Board has considered the evidence related to the allegations in the State's Request for Summary Suspension.
5. The Board finds that the State has, in its presentation of evidence, met its burden to the necessary degree of showing an imperative need for emergency action to protect the public health, safety and welfare.
6. Pursuant to 3 V.S.A. § 814(c), the Board issues the following temporary order, which shall remain in effect until further action by this Board.

ORDER

The Board of Nursing GRANTS the State of Vermont's Request for Summary Suspension.

The Respondent's license is SUSPENDED SUMMARILY pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

- END -

Vermont Board of Nursing

By:

Ellen W. Leff
Ellen W. Leff, RN
Board Vice-Chairperson

Dated at Montpelier: 10 March 2008

OFFICE OF PROFESSIONAL REGULATION

DATE OF ENTRY: 3/12/08

APPEAL RIGHTS

This is a final administrative determination by the Vermont Board of Nursing.

A party aggrieved by a final decision of a Board may appeal the decision by filing a written Notice of Appeal with the Director of the Office of Professional Regulation, Secretary of State's Office, National Life Building, FL2, 1 National Life Drive, Montpelier, Vermont 05602-3402 within 30 days of the entry of the order.

For more information about the procedure for filing an appeal, please see the Administrative Rules for the Office of Professional Regulation, which you can find at: <http://www.vtprofessionals.org/opr1/opr/admnrule.pdf> and the Rules are also available at the Office of Professional Regulation.

If you file an appeal, the Director of the Office of Professional Regulation shall assign the case to an appellate officer. The appellate officer will review the record (the tape recording, exhibits etc.) created before the board during the hearing of your case. In cases of alleged irregularities in procedure before the board, not shown in the record, proof related to that issue may be taken by the appellate officer. 3 V.S.A. §§ 129(d) and 130a.

STATE OF VERMONT
SECRETARY OF STATE
OFFICE OF PROFESSIONAL REGULATION
BOARD OF NURSING

IN RE:)	
DAVID R. SHADDY)	Docket No. NU64-0108
License No. 026-0029631)	

REQUEST FOR SUMMARY SUSPENSION

Board Authority

1. The Vermont Board of Nursing (the "Board") has jurisdiction to investigate and adjudicate allegations of unprofessional conduct committed by Nurses pursuant to 3 V.S.A. §§ 129, 129a; 26 V.S.A. Chapter 28 and; the rules of the Board and the Vermont Office of Professional Regulation.
2. The Board of Nursing is authorized by 3 V.S.A. § 814 to summarily suspend the license of a nurse when it finds that the public health, safety or welfare imperatively requires emergency action.

Statement of Facts

3. The Respondent, David R. Shaddy, is licensed in the State of Vermont as a Registered Nurse under license number 026-0029631. This license was originally issued on June 14, 2004, and is currently set to expire on March 31, 2009.
4. At all times relevant, the Respondent was employed as a registered nurse at the Brattleboro Retreat (the "Facility") located in Brattleboro, Vermont.
5. On or about January 22, 2008, the Board received a complaint from the Facility regarding possible narcotic diversion by the Respondent. The complaint was based in part on the following information:
 - i) On or about the morning of January 20, 2008, registered nurses B.R. and M.A. were conducting the narcotics count and noted that an Adderall XR 10mg package had been tampered with. B.R. and M.A. observed that the Adderall package had been opened and some of the capsules had been either partially or completely emptied. Upon examination, it appeared that approximately six (6) capsules had been tampered with.
 - ii) M.A. advised that she conducted the narcotics count with the Respondent the previous evening as the Respondent was coming on duty for the evening shift. M.A. reported that at that time, the Adderall package had not been tampered with. M.A. further advised that while conducting the narcotics count on one occasion, the Respondent commented "Ooh, baby Adderall" in reference to the Adderall in stock.

STATE OF VERMONT



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iii) As the Respondent was the primary suspect with regard to the tampered Adderall, a plan was devised whereby the Respondent was assigned to be responsible for medication during the day shift on January 20, 2008 and was the only nurse allowed access to the medication room unobserved that day.

iv) When registered nurses B.R. and W.B. examined the Adderall in the medication room after the Respondent's shift was over on January 20, B.R. and W.B. observed that approximately eight (8) additional Adderall capsules had been tampered with during the Respondent's shift.

6. In an interview with Clinical Manager at the Facility, M.W., conducted by State Investigator Karl Parker and Investigator Jeffery Krauss of the Attorney General's Office on or about January 28, 2008, M.W. advised that the Facility had experienced some past issues regarding Adderall tampering in November of 2007. M.W. further advised that the Facility had no issues with Adderall tampering before the Respondent was hired at the Facility. Furthermore, since the Respondent was terminated from the Facility, there have been no more reports of Adderall being tampered with.

7. Additionally, M.W. advised that when the Respondent was terminated, the Respondent made a comment to M.W. that he has not done drugs in a long time.

8. In an interview with Investigator Paker and Investigator Krauss conducted on or about January 28, 2008, both B.R. and W.B. advised that on one occasion, a patient was admitted to the Facility who had a prescription bottle with him/her containing Adderall. B.R. and W.B. advised that the Respondent took the bottle and counted the contents on his own then handed the charge nurse a sheet with the count on it. Afterwards, the Respondent left for his break and did not return.

Request for Relief

9. The facts as set out above establish that in order to protect the public health, safety or welfare of the people of the State of Vermont emergency action is imperative.

10. The above acts and circumstances, alone or in combination, violate:

- i. 3 V.S.A. § 129a(a)(3) (failing to comply with provisions of federal or state statutes or rules governing the practice of the profession);
- ii. 26 V.S.A. § 1582(3) (is unable to practice nursing competently by reason of any cause, which includes, but is not limited to, failing to conform to the essential standards of acceptable and prevailing nursing assistant practice pursuant to ARBN Chapter 4, Rule IV(II)(B)(2));
- iii. 26 V.S.A. § 1582(7) (engages in conduct of a character likely to deceive, defraud or harm the public which includes, but is not limited to, diverting supplies, equipment, or drugs for personal or other unauthorized use pursuant to ARBN Chapter 4, Rule IV(II)(D)(4)); and

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iv. 3 V.S.A. §129a(b)(2) (failure to practice competently by reason of any cause on a single occasion or on multiple occasions may constitute unprofessional conduct. Failure to practice competently includes failure to conform to the essential standards of acceptable and prevailing practice).

WHEREFORE, the State of Vermont respectfully requests that pursuant to 3 V.S.A. § 814(c), the Respondent's registered nursing license be summarily suspended, pending a hearing on the merits.

DATED at Montpelier, Vermont this 2 day of March, 2008.

STATE OF VERMONT
SECRETARY OF STATE

By: _____
Edward G. Adrian
State Prosecuting Attorney

nu.shaddy.sum susp

STATE OF VERMONT



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